

191

Statement of PRISCILLA THOMPSON  
Before the  
Senate Special Investigative Committee  
on the Hydrogen Investment Capital Special Fund Management Contract Award  
Saturday, March 15, 2008  
1:30 PM  
State Capitol, Conference Room 229

Good afternoon, Chair Mercado Kim and members of the Committee. The actions of the Strategic Industries Division (SID) and its personnel with respect to the Hydrogen Investment Capital Special Fund Request for Proposals (RFP) are important to this investigation. In this regard, I will provide you with information to clarify the roles and responsibilities of its personnel and SID's understanding of the "delegation" of procurement from the Contracts Office on May 16, 2007. I will also provide you with information to clarify the Committee's understanding of certain issues raised in earlier hearings.

I am an energy analyst in SID's Energy Planning and Policy Branch. Until his retirement at the end of December 2007, I worked under the direct supervision of Dr. John Tantlinger, Branch Manager. Dr. Tantlinger reported to Maurice Kaya, SID Program Administrator and Chief Technology Officer. Mr. Kaya reported to Director Theodore Liu. Mr. Kaya was designated by Director Liu to be Project Manager for this RFP. Dr. Tantlinger supported Mr. Kaya as Branch Manager and I supported Dr. Tantlinger as one of his Branch staff.

As assigned staff to hydrogen technology projects, I provided support from the beginning of the procurement process as a routine staff responsibility, including assistance with preparation of the draft RFP for final approval and advertisement by DBEDT's Contracts Office. I had no previous experience with an RFP other than as an Evaluation Committee member; thus, I relied heavily on the advice and guidance of the Contracts Office, supervisor reviews, and document samples from a prior RFP procurement in the Branch files.

The RFP and amendments had been completed, five proposals submitted to the Contracts Office, and Evaluation Committee scores tallied by the Contracts Office, when on May 21, 2007, Dr. Tantlinger called me into his office to inform me that the procurement had been delegated to Mr. Kaya effective immediately. Consistent with my status as Branch staff, I was not involved in any discussion or consulted regarding the "delegation" of procurement.

As I was already fully tasked with other work assignments and concerned that this delegation may impact my collegial working relationship with the Contracts Office, I reminded Dr. Tantlinger that this was my first RFP and questioned the scope of responsibility of this delegation. Dr. Tantlinger assured me that we would only be providing additional assistance to

the Contracts Office to expedite processing and that the Contracts Office would continue to provide guidance. Acknowledging that this was my first RFP, he reminded me that the Branch had considerable experience with RFPs. I was then directed to assist with the priority offeror meetings by drafting letters to the offerors and assisting with scheduling, and also to talk with the State Procurement Office to determine whether a mechanism proposed by one of the offerors for decision-making would present a conflict of interest. These tasks were to be completed and the meetings scheduled, prior to Mr. Kaya's return from vacation on June 13, 2007. I had only a short time to learn and carry out the Contracts Office's duties in this area while also handling other work priorities.

Much later, I saw a copy of a handwritten note in the Contracts Office file, dated May 16, 2007, that "All Procurement and Contracting has been turned over to the Programs per the Director." It was ~~not~~ until five days later, on May 21, 2007, that I was informed of this delegation.

Thus, as you know, on May 25, 2007, I sent an e-mail to our Contracts Office requesting a sample letter to the priority offerors "so I don't mess up too badly" consistent with my reservations expressed to Dr. Tantlinger and his assurance of Contracts Office expertise. Other e-mails of May 30, 2007 and June 13, 2007 from Dr. Tantlinger to the Contracts Office, that have been submitted to the Committee, make clear that it was SID's expectation that the Contracts Office would have continuing oversight of the procurement process and further established SID's understanding of its support role in this procurement. I have copies of those e-mails and can provide them to the Committee.

At no time was I provided with information that this understanding was not correct, or provided with any other rationale for this "delegation".

During the course of this procurement, I familiarized myself with the appropriate sections of the procurement law and rules and studied the department's Contracts Manual, after it became available to me in March 2007, in order to support this procurement in compliance with policy and procedures. Due to the unique requirements of this RFP and the lack of written procedures and sample documents for the additional tasks related to the "delegation", I sought guidance from the Contracts Office, direction from my supervisors, and consistently brought any items that I believed needed a higher level of scrutiny to the attention of my supervisors and the Contracts Office. Additionally, all significant documents were sent to the Contracts Office before being sent out.

Having heard much of the testimony presented in earlier hearings of this Committee, I would like to correct any misunderstandings by stating the following:

- I was not consulted in the decision to "delegate" this RFP to SID, and, in reality, was told by Dr. Tantlinger about the decision five days after the fact. I was given no choice.

- The date of the “delegation” was May 16, 2007, two months after the issuance of Amendment 2 of the RFP.
- The role of SID was to assist the Contracts Office. Responsibility for oversight of DBEDT’s conformance with procurement law and practices had not transferred to SID.
- In the SID chain of command, I reported directly to Dr. Tantlinger, not Mr. Kaya, and acted within the confines of Branch protocol, i.e., upon Dr. Tantlinger’s instructions and approval.
- I made it clear to Dr. Tantlinger in my e-mail of February 28, 2007 that this was my first RFP and reminded him of this during my meeting with him on May 21, 2007. Despite my lack of training and experience, I was not made aware of a February 23, 2007 procurement class offered by the Contracts Office to introduce the new Contracts Manual. As a result, I relied heavily on SID, Branch, and Contracts Office expertise.
- When I became aware of two issues raised by the Committee during earlier hearings, I brought these issues to the attention of the Contracts Office and my supervisors.
  - I was made aware of the first issue by Louise Mott on August 8, 2007, that the selection for award was not consistent with the evaluation committee’s “recommendation”. I conveyed this concern on the same day via e-mail to Mr. Kitamura, Dr. Tantlinger, and Mr. Kaya to raise this issue, and received no response.
  - The second issue was again brought to my attention by Ms. Mott who sent sample notification letters to SID, also on August 8, 2007. After reviewing the samples, I became aware of the omission of standard Contracts Office language from the notification letters that had already been signed by Director Liu, and sent an e-mail to Dr. Tantlinger suggesting that we could enclose the omitted information with the letters. Dr. Tantlinger advised me to proceed without the additional information but to seek confirmation from the Contracts Office. On August 9, 2007, in a memo transmitting the signed letters to the Contracts Office, I pointed out that the letters differed significantly from the sample letter, that necessary information may have been omitted, and to please advise me as soon as possible so that we may provide the information to the offerors. Since I received no response, I checked the RFP to confirm that the protest information had already been made available to the offerors.

Thank you for this opportunity to provide information and clarification regarding the RFP process in which I was involved. As I have previously stated, I have copies of all the documents mentioned in this statement and would be more than happy to provide them to the Committee. I welcome any questions you may have.